

ITEM 8
CHIEF LEGAL COUNSEL’S REPORT
New Filings, Recent Decisions, Litigation Calendar

This public session report is intended only as an information item for the public.¹ Commission communications with legal counsel about pending litigation or potential litigation are reserved for Closed Executive Session, per the Notice and Agenda.

New Filings

None.

Recent Decisions

- Supreme Court Upholds Commission Decision on Legal Compulsion and Remands Case to Court of Appeal to Determine if There Is Practical Compulsion

Coast Community College District, et al. v. Commission on State Mandates, Department of Finance (Minimum Conditions for State Aid)

California Supreme Court, Case No. S262663

Third District Court of Appeal, Case No. C080349

Sacramento County Superior Court, Case No. 34-2014-80001842

On August 15, 2022, the California Supreme Court issued its decision, reversing the Court of Appeal’s decision on the state-mandate issue relating to the Board of Governor’s regulations requiring community college districts to perform certain activities as a condition to be entitled to state aid. The Supreme Court found that the Court of Appeal applied the wrong test for legal compulsion, and that legal compulsion requires an order or command or legal duty to act, which is not evident in the plain language of the statute or regulations. The Supreme Court remanded the case back to the Court of Appeal to determine if practical compulsion applies. The Court declined to decide the remaining issues accepted for review.

Litigation Calendar

<u>Cases</u>	<u>Date of Hearing/ Oral Argument</u>
REMAND of <i>State of California Department of Finance, State Water Resources Control Board, and California Regional Water Quality Control Board, San Diego Region v. Commission on State Mandates and County of San Diego</i>, Third District Court of Appeal, Case No. C092139	On 9/1/22, the Court sent a notice that it was prepared to issue a decision without oral argument. The parties

¹ Based on information available as of September 8, 2022. Release of this litigation report shall not be deemed to be a waiver of any privileged communication or act, including, but not limited to, the attorney-client privilege and the attorney work product doctrine.

<p><i>Discharge of Stormwater Runoff, 07-TC-09</i> (California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-001, NPDES No. CAS0108758, Parts D.1.d.(7)-(8), D.1.g., D.3.a.(3), D.3.a.(5), D.5, E.2.f, E.2.g, F.1, F.2, F.3, I.1, I.2, I.5, J.3.a.(3)(c)iv-viii & x-xv, and L</p>	<p>have until 9/12/22 to affirmatively request oral argument.</p> <p>On 9/8/22, the Department of Finance, State Water Resources Control Board, and San Diego Regional Water Quality Control Board requested oral argument.</p> <p>A hearing date has not yet been scheduled.</p>
---	---